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Attorneys for Plaintiff and Counterdefendant UM
CORPORATION and Counterdefendant GOLDEN
MEDIA GROUP, INC. and TIGA
ENTERTAINMENT COMPANY, LTD.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

UM CORPORATION, a Japanese
corporation,

Plaintiff,

v.

TSUBURAYA PRODUCTIONS CO.,
LTD., a Japanese corporation,

Defendant.

Case No. 2:15-cv-03764-AB (AJWx)

**NOTICE OF MOTION AND
MOTION *IN LIMINE* NO. 2 OF
PLAINTIFF AND
COUNTERDEFENDANT UM
CORPORATION AND
COUNTERDEFENDANTS GOLDEN
MEDIA GROUP, INC. AND TIGA
ENTERTAINMENT COMPANY,
LTD. FOR ORDER ALLOWING USE
OF FORMER TRIAL TESTIMONY
OF SOMPOTE SAENGDUENCHAI
PURSUANT TO FED. R. EVID.
804(b)(1)**

AND RELATED CROSS-CLAIMS

Hearing Date: October 20, 2017
Hearing Time: 11:00 a.m.
Courtroom: 7B

Pretrial Conf.: October 20, 2017
Trial: November 7, 2017

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that on October 20, 2017 at 11:00 a.m., or as
3 soon thereafter as counsel may be heard in the courtroom of the Honorable Andre
4 Birotte Jr., United States District Judge, Central District of California, located at
5 Courtroom 7B, First Street Federal Courthouse, 350 W. 1st Street, Los Angeles,
6 California 90012, plaintiff and counterdefendant UM Corporation (“UMC”) and
7 counterdefendants TIGA Entertainment Company, Limited (“TIGA”) and Golden
8 Media Group, Inc. (“GMG”) will, and hereby do, move the Court *in limine* for an
9 Order holding pursuant to Fed. R. Evid. 804(b)(1) that:

10 (1) the rule against hearsay does not require exclusion at trial
11 of the former testimony of Sompote Saengduenchai (“Sompote”); and

12 (2) subject to objections other than that the former testimony
13 is hearsay, UMC, TIGA, and GMG may use at trial testimony from:

14 (a) Sompote’s direct testimony offered at trial
15 in the Japanese proceedings via a written declaration on
16 April 5, 2002, which he adopted into his oral testimony
17 given on July 23, 2002;

18 (b) Sompote’s testimony offered at trial in the
19 Japanese proceedings through oral examination and
20 cross-examination on July 23, 2002; and

21 (c) Sompote’s testimony offered at trial in the
22 Thai proceedings through oral examination and cross-
23 examination on September 22–23, & 30, October 1, 4–5,
24 & 27–28, November 1–2, 4, 12, & 15–17, 1999, June 9,
25 2004, January 17 and November 28, 2005, and June 2,
26 2006.

27 This Motion is made on the grounds that: (1) Sompote is unavailable as a
28 witness under Fed. R. Evid. 804(a)(4) and 804(a)(5) because (a) he is unable for

1 health reasons to fly 17 hours from Thailand to Los Angeles to appear at trial, and
2 (b) UMC, TIGA, and GMG have not been able, by process or other reasonable
3 means, to procure Sompote's attendance at trial, given that (i) he lives in Thailand
4 and is beyond the Court's subpoena power and (ii) he has refused to appear at trial
5 or to participate in this lawsuit; (2) Sompote gave his former testimony as a
6 witness at a trial, *see* Fed. R. Evid. 804(b)(1)(A); and (3) defendant and
7 counterclaimant Tsuburaya Productions Co., Ltd., the party against whom the
8 former testimony is being offered, was a party to the Japanese and Thai
9 proceedings and had an opportunity, and similar motive, to develop Sompote's
10 testimony by cross-examination, *see* Fed. R. Evid. 804(b)(1)(A).

11 This Motion is based on this Notice of Motion, the Memorandum of Points
12 and Authorities filed concurrently herewith, the Declarations of Jesada Anucharee,
13 Perasit Saengduenchai, and Timothy Rawson filed concurrently herewith, the
14 [Proposed] Order lodged concurrently herewith, and any further evidence and
15 argument as may be presented to the Court prior to or at the hearing on this
16 Motion.

17 This motion is made following the conference of counsel pursuant to Local
18 Rule 7-3 which took place on September 6, 2017.

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20 Dated: September 22, 2017

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23 By: /s/ Jeffrey D. Wexler

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25 Attorneys for Plaintiff and Counterdefendant
26 UM CORPORATION and
27 Counterdefendants GOLDEN MEDIA
28 GROUP, INC. and TIGA
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